

REMARKS/ARGUMENTS

This paper is filed in response to the Office Action dated October 27, 2010. In the Office Action, claims 1-5, 8-9, 12, 14-37, 39-55, 57-63, 65 and 67-70 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, claims 1-5, 8-9, 14-21, 23, 25, 27-29, 31, 33-34, 39-43, 47-48, 50-52, 58-59, 61-63, 65, and 67-69 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs (US Patent No. 7,029,280) in view of Parry (US Patent No. 6,077,085), in view of Bull (U.S. Patent No. 6,409,514), and further in view of Turner (US Patent No. 6,633,742), claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, in view of Bull, and further in view of Jensen (US Patent No. 6,834,276), claims 24, 26, 60 and 70 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Bull, in view of Turner, and further in view of Kershaw (US Patent No. 5,565,316), claims 30 and 49 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Bull, in view of Turner, and further in view of Jenkins (US Patent No. 6,293,801), claim 32 was rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, and further in view of Strub et al (US Patent No. 6,652,287), and claims 35-36 and 44-46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Krebs, in view of Parry, in view of Turner, in view of Bull, and further in view of Siefert (US Patent No. 5,810,605).

As of this paper, claims 1-5, 8-9, 14-21, 23, 25, 27-29, 31, 33-34, 39-43, 47-48, 50-52, 58-59, 61-63, 65, and 67-69 are still pending in the application, and resubmitted for immediate allowance.

Examiner's Telephonic Interview Summary

Applicants express appreciation for the Examiner's Interview conducted on January 27, 2011. During the interview, Applicants took the position that "educational content" should be interpreted as something that the student learns and an "educational activity" should be interpreted as something that describes how the student learns. The Examiner took the position that the current specification and claim limitation do not impose any special limitation to either phrase. However, the Examiner agreed that with the Applicants that should Applicants' special definition be considered as part of the claim limitation, the rejection of Krebs, Bull, Perry and Turner would be untenable. The Examiner further "agreed that the disclosure [on page 20 of the application] is sufficient to overcome the rejection under 35 U.S.C. 112, first paragraph."

Definition of "Educational Activity" and "Educational Content"

In support of Applicants' position that "educational content" is something that the student learns and an "educational activity" is something that describes how the student learns, Applicants respectfully submit Frankenbery, et al. (United States Patent No. 6,669,486, hereinafter "Frankenbery"), which was filed December 31, 2001. Frankenbery teaches and supports Applicants' separate meanings for the terms "educational content" and "educational activities." By way of example, Frankenbery teaches:

"In the illustrated embodiment, the activities are arranged into twelve sets, although the principles of the present invention are equally applicable to any number of activities (including a single educational activity) or sets of activities. The activities of each preferred set are related in education content and are to be performed in seriatim so that the activities are progressive and expand upon any previous activities." See Col. 3, lines 46-53.

"For example, it is believed that direct involvement by the learner in performing the educational activity requires relatively greater concentration and attention by the learner, which means that the learner is more likely to receive the desired information [i.e.: educational content]." *Id.* at Col. 1, lines 20-24.

“In addition, the backpack preferably contains a book (not shown) that is to be shared with or read to the learner. The book is preferably a fictional story that relates in educational content to the corresponding [educational] activity set” *Id.* at Col. 9, lines 55-59.

Thus, at the time of filing Frankenberg the terms “educational content” and “educational activity” were understood to have separate meanings. Since the present application was filed subsequent to Frankenberg, Applicants respectfully submit that Frankenberg provides an example of the understanding in the art of the difference between the meaning of “educational content” and the meaning of “educational activity”.

Applicants further submit that Applicants’ use of the terms “educational content” and “educational activity” are consistent with the definitions taught in Frankenberg. For example, in the present application Applicants specifically define “educational content” as embracing “language, mathematics, science, technical training, cooking, medical procedures, a particular skill, professional training, or other learning.” *See* page 7, lines 17-19 of the present application as originally filed. Additionally, when discussing the need for the learner to “be particularly well-prepared to use a certain subset of the information [i.e.: educational content] for an upcoming responsibility or engagement,” the present application explains that “if a particular activity proves to be helpful to some learners, but not to others, entry conditions are set to only allow those learners that are predicted to benefit from the activity be exposed to the activity.” *Id.* at page 6, lines 16-23. Further, the present application teaches that some “learners skip or never experience the particular activity...[or] [a]lternatively, they are exposed to another educational activity...[i]f the new activity would be useful to the learner.” *Id.* at page 7, lines 1-4. Thus, Applicants submit that the teachings of the present invention relating to “educational content” and “education activities” are disclosed as distinct terms, that such terms are supported by the

teachings of the Frankenbery reference, and that Applicants' use of the terms "educational content" and "educational activity" are consistent with the definitions taught in Frankenberry. Accordingly, Applicants respectfully submit that the rejection of Krebs, Bull, Perry and Turner is untenable

Rejections Under 35 U.S.C. 112, first paragraph

Applicants respectfully submit that support for claims 1-5, 8-9, 12, 14-37, 39-55, 57-63, 65 and 67-70 is provided on page 57 of the application as originally filed. In particular, the present application teaches, "In generating a to-do list that represents to the learner a few, high priority learning choices based upon the learner's previous performance and upon learning sequences and priorities set, analyzed, and updated by the system, the instruction engine performs a lot of behind-the-scenes work to make the learner guidance system function." During the Telephonic Examiner's Interview, the Examiner agreed with Applicants' proffered support. Accordingly, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. 112, first paragraph.

Rejections Under 35 U.S.C 103(a)

In view of the teachings of the Frankenbery reference (described above), Applicants submit that the present rejections under 35 U.S.C 103(a) are untenable, and therefore respectfully requests withdrawal of all present rejections over the Krebs, Bull, Perry and Turner references. Applicants further submit that the remaining references cited in the Office Action (Jensen, Kershaw, Jenkins, Strub, and Siefert), either alone or in combination, do not teach or suggest all of the limitations claimed in the claim set provided herein. For example, none of the cited references (alone or in combination) teach or suggest selectively prioritizing the individually

matched educational content and corresponding educational activities for presentation to the particular learner based upon the learner performance data that was obtained and analyzed by the computer system as claimed herein. Further, none of the cited references (alone or in combination) teach or suggest using the learner performance data that was obtained and analyzed by the computer system to prioritize the identified portions of the educational content that are to be presented to the particular learner as claimed herein. Support for these limitations in the present application can be found, for example, on: page 54, lines 3-10; page 57, lines 15-22; page 65, line 2 through page 67, line 2; page 75, lines 3-23; and page 76, line 5 through page 77, line 8. Therefore, the claims of the present invention are not made obvious over the cited references. Applicants respectfully submit that the claim set as provided herein overcomes all rejections made in the Office Action.

CONCLUSION

Applicants submit that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 28th day of February, 2011.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "D. B. TINGEY", written over a horizontal line.

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